ON

ARBITRATION:

AND ON

FORMS OF BALANCE SHEETS.

A LECTURE

DELIVERED AT THE SECOND ORDINARY MEETING OF THE

LIVERPOOL CHARTERED ACCOUNTANTS' STUDENTS' ASSOCIATION,

MARCH 14TH, 1883,

BY

ASTRUP CARISS, F.C.A.

LONDON:
EFFINGHAM WILSON, ROYAL EXCHANGE.
LIVERPOOL:
HENRY YOUNG, 12, SOUTH CASTLE STREET.

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PRICE SIXPENCE.

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On the day before the following Lecture was delivered, I read, for the first time, the interesting paper of my old friend, Mr. Guthrie, on "The want of Uniformity in the Modes of Stating Accounts," and the debate thereon.

Now, I had been asked, fifteen years ago, on giving a Course of Lectures on Bookkeeping, in Queen's College, Liverpool, to decide a question which had arisen, as to the side on which Assets ought to appear in a Balance Sheet rendered as a Dr. and Cr. a/c; and had been led thereby to explain the principle, and give the correct forms, in a treatise on Bookkeeping which I was then passing through the press.

It was therefore to me, when I read the paper and speeches, and saw so much error, as the trumpet-call to battle is to the war horse; or as a flowing sheet and a rolling sea to the sailor on land who longs to breast the ocean's waves again; and, as it fitted in, as I explain in the text, with my main object, and could scarcely fail to prove interesting and instructive to the majority of my audience, I did not resist the alluring temptation it presented to me to join in the fray: for, though this slumbered, it had not concluded.

In the following pages I have considerably extended, in relation to balance sheets, the scope of my actual treatment of the subject in the Lecture Room; and have given to the argument greater definiteness and precision than, in speaking, as I did, only from mental notes, I could accomplish.

At the same meeting I described, but too briefly, some of the incidents of Arbitration. It was not originally my intention to take the position of teacher thereof on that occasion. I rather desired to point to an approaching future, which I think the profession may fairly hope is before them, of growth

of an almost newly-recognised department of business, through Arbitration becoming, with increased enlightenment, more and more resorted to by the commercial world, instead of going to law; as, in a very different field, instead of going to war. Public ignorance is the chief cause of both evils.

And in that, and some other matters glanced at in the lecture, I own that I was using the Liverpool Students' Association, not only to invite them to look in the direction my hand indicated, and to animate them with the prospect pointed out, but also as a vehicle for conveying my ideas to the profession at large.

Some, it transpired, of those I addressed, had expected more practical assistance in the title subject of my paper. This has induced me to resume a Digest, which I had already commenced, and which will soon be completed and published—in time for any relying wholly on its help for the Midsummer Examination. It will be brief, but will contain all the student needs to know for passing the Examination: and this being so, will be much more valuable in its brevity for that object than any longer work.

I may here add that I have been encouraged by the recent debate on Balance Sheets to complete my treatise on Book-keeping. For many years I have had 2,000 copies, in sheets, of three-fourths of the work (including the above-mentioned explanation) shelved in my office. Doubtful as I am of its merit (not of the truth of its teaching), I will make its price to the profession so small, that none who may be dissappointed with its contents can feel otherwise aggrieved.

35, CASTLE STREET, LIVERPOOL,
26th March, 1883.

I.

CONCERNING ARBITRATION.

Some surprise has been expressed to me at my selecting "Arbitration" for to-night's Address. It seems to my friendly critics that I am beginning at the wrong end. They are of opinion that Arbitration should be the last instead of first of your opening Session's lectures.

Two considerations governed my decision. One is pardonable; many of my professional brethren will be found willing to address you on one or other of those departments which are numbered 1 to 6 in the Institute's 82nd bye-law. They are able to give you clearer and more efficient guidance than I am gifted with power to accomplish. It is therefore in your interests, and to leave a wider field of choice for those who may come after me, that I have denied myself easier and more congenial work, in taking a subject which I assumed no one else would bring before you within the present year.

Then next, so far as instruction in the subject comes within the scope of my intention, I am logically right in placing it in the front of other branches. You are not all now beginning your student's career; have not all to be classed on the same rudimentary level which would point to book-keeping as a necessary commencement of these lectures. Some of you will seek admission at the next *final*. Knowledge of the principles of

Arbitration is one of the tests then to be satisfied. From its being a new, and I may almost say a foreign subject, it is probably the one in which those concerned are least prepared; in which they would most desire assistance; and for which, through the nearness of the ordeal, they have a prior claim to the aid your lecturers are able to give them. The rest of your members have before them a longer future of those opportunities which, alas, are too often only seen to be golden at their setting, when they are sinking out of sight, and beyond recall, into the dark depths in which all wasted life is for ever lost.

But it not my intention to read you an essay on the principles of Arbitration. This would more properly fall to a member of the legal profession. It would be inappropriate for a layman to venture on such elevated ground. I have availed myself of the subject for a less ambitious aim.

I must confess to some surprise at Arbitration being included in the Institute's scheme of intermediate and final examinations. It is so much a lawyer's department as to have the appearance of invasion of that profession's 'liberties'; and your being directed to that great work on the subject "Russell on Arbitration and Award" might be regarded as indicating your being expected to attain as extensive and perfect knowledge thereof as must be acquired by lawyers.

But it is not in the nature of things that that could be intended; nor is it probable that any of you would be *plucked*, who, having satisfied the examiners in Nos. 1 to 7, proved imperfect in your acquaintance with No. 8.

I am confirmed in the opinion that only an easy test will be applied, by the questions thereon in the two half-yearly examinations which have already taken place. I therefore feel I may venture to say to such of you as are intending to submit yourselves to the forthcoming Midsummer examination, do not let anxiety on the subject of Arbitration lead you to give to its study an undue proportion of your time, to the neglect of branches in which you will rightly be expected to possess competent knowledge.

I cannot help regretting that in an "off" subject, which Arbitration is, students are left to acquire their knowledge, for the purpose of passing, from such elaborate works as Russell's book. In strictly professional work it is undesirable to prescribe authors, for knowledge of the subjects, in the widest sense, and not of special books, should be encouraged; but, in what chiefly relates to *another* profession, it is scarcely fair to leave the student to acquire his knowledge from books of such a scale and character as the work I have mentioned. Some small comprehensive treatise, giving principles broadly, and free from those many subtle distinctions which are of the greater interest to legal practitioners, but are too numerous and confusing for accountants' students, should be prescribed as the book on which the examination would be conducted.

But while I hold the opinion I have expressed, as to the scope of reading which should be made compulsory, and that accountants, whatever their knowledge may be, ought resolutely to abstain from taking on themselves purely lawyers' responsibility and work, yet I am

also of opinion that a careful study of Russell's book is in the highest degree desirable. It compels the reader to see with other eyes than those of his own preconceptions; to recognize that every question has two sides; to concede opponents' rights; to act within the limits of fairness to both sides: and it exerts a beneficial influence of a nature which an accountant's ordinary practice does not supply. It is well calculated to develop that judicial-mindedness which is not less necessary than knowledge, shrewdness, and integrity for the due discharge of the onerous and honorable functions of an Arbitrator or Umpire.

For the most part Arbitrations which are of interest to our profession involve disputed accounts; but other matters of difference, or of statutory arrangement in which dispute has not arisen, such as a certain Local Board apportionments, occur, in which accountants are equally fitted to act. The practice of referring to Arbitration is increasing, especially in relation to accounts, and it is likely to grow more and more, because the results are generally more quickly reached than in courts of law, and at much less cost than law-suits entail. The growth of commerce has so much increased the claims on our law courts as to make references therefrom a welcome relief. In the country's best interests this should be encouraged. With the existence of an Associated body of trained and capable men, and with the competence of these recognized, as it ought to be, both in Enactments and in the Courts, a large accession of Accountants' business, of a kind which could not fail to add to the profes-

sion's status and dignity, might reasonably be anticipated.

I have said that accountants ought *to stick to their own last.* The reading of Russell's Arbitration will probably convey the same lesson to those who study it. It will show them that a little learning is a dangerous thing; will tell them where to act of themselves; where to stop; and when to call in the Attorney's help.

But if we as a profession thus refrain, are we not entitled to be met in the same spirit? Why, I would ask, should Parliament enact, no longer than a year ago, that in a matter which is purely one of account, if difference arise *it shall be decided by a barrister?* But this is just what has been done, *since* our Incorporation, in the Municipal Corporation Act, 1882; and this is not the only case in which Parliament has altogether excluded us from acting, where our profession singles us out as *the* men for the work. Such enactments should be revoked. Our President can tell us if the matter as had the attention of the Council of the Institute. It is worthy of their consideration.

Another subject naturally arises here, on which to say a few words.

I was recently asked, what is the use of your Charter, seeing you are not protected like the legal and medical professions; any one who is not chartered being as free to practise as yourselves?

Now there is no one who is more in favour than myself of the right to practice, in any profession, upon the title of duly ascertained and certified competence,

and without the illegitimate help of that unmitigated evil to society in every shape and form—monopoly. The Institute of Accountants is without any element of monopoly. It is on their competence and ability that its members have to rely for success. This is as it ought to be. But, in respecting the privileges of the protected profession with which they are brought so much into contact, it is only right that they should duly watch their own interests. Hitherto accountants have probably felt scarcely independent enough to claim juster and more equal conditions, where the two professions appear in competition. Under the impending change in the Bankruptcy Laws, the approximation, through mutual interest, of the two professions, will probably be diminished. Accountants will have to look out for themselves. Certainly it is impossible, either as public policy, or as fairness between man and man, to approve of legislation which restrains accountants from in any way trenching on the ground occupied by lawyers, *and permits the latter to act as accountants and estate agents.* This also claims the attention of the Council of the Institute.

Perhaps, without a few words more, I shall not only fail to connect it with the subject of this address, but the importance of the interests involved will not sufficiently appear. There are, at the present time, numerous matters, in connection with accounts, which are referred by public boards, as well as courts of law, concerning which no statutory prescription as to the arbitrators to be appointed exists; but in which, I believe, it is the general practice to send them to a

salaried officer of one or other court of law. I refer to cases altogether free from any questions of law. Surely it is a legitimate object of our profession to seek that they shall be sent to those whose special business it is to deal with them.

It is only by the members of our profession rendering themselves individually worthy, in the highest degree, of the responsible duties they have to perform, and by the Institute, on their behalf, securing fairness for them as a body, that it can rise to the position it ought, and I believe is destined, to take. So long as we are content to receive the crumbs which fall from another profession's tables, when we should be sitting at our own board, we shall scarcely, as a whole, be fit for that loftiest height of an accountant's profession—that of sitting to exercise those judicial qualities of mind which are required in the office of arbitrator!

II.

AND, INCIDENTALLY, CONCERNING BALANCE SHEETS.

The need of our cultivating those powers of logical analysis and comparison which an arbitrator should possess has recently been displayed in the *Accountant's* report of a debate on the forms of balance sheets. It is therefore not out of place to say a few words on the subject.

The science of book keeping knows only two books of account. These are the day-book, for *recording* all transactions; and the ledger, for *classifying* them. What is called the Italian system carried this out in *form* as well as essence. Only two books were used. Every transaction was recorded, as it occurred, in the journal, or day-book; from which alone it found its way into the ledger. The modern cash-book, *as part of the system*, was unknown. The only cash account was in the ledger. Double entry was fully completed *within* the ledger, in which every debit had its credit. This was effected by setting up a *fictitious stock account*, a cash account, and a balance account, besides ordinary accounts. And every open account was *closed* at each period of balancing by carrying its balance into *balance account*.

In the more modern practice of the art, subdivision became convenient. Separate books are now used for cash, goods in, goods out, bills, &c., all these being *parts* of the day-book. "Cash" is not carried into the ledger; the fictitious stock account is not set up; nor is a balance account opened. The balance-sheet is extracted from the open accounts, and the balances are carried *down*. If there be cash in hand, it is found that the ledger debits and credits are unequal in amount. This arises from the principle of double entry having been violated. But the accountant knows, even if he does not understand *why*, that the cash-book balance must be brought into the balance sheet. The result is correct, though the form is wrong. But the cash-book has done double duty; as a day-book and a ledger: in other words it is a ledger account *outside the ledger*. It is, in fact, the personal account of the cashier. *That* is why its balance must be added to those taken from the general ledger. And, notwithstanding the defect defined, modern practice is much the better of the two. The sometimes tedious work of closing all the accounts, at each period of balancing, only to record formal proof in the ledger of the whole being equal to the sum of all its parts, is as useless labour as it would be to give with each *sum* performed the usual schoolboy's proof.

The habit of western nations to write from left to right, led them to enter property on the left-hand side, in accounts; for men naturally put down their assets first. Therefore it is that assets appear on the debit, or left-hand side, and liabilities on the credit, or

right-hand side. This is so in every cash-book and ledger. There is no escape from it. Therefore the Italian balance account, or ledgerized totals of ledger balances, has assets on the left, and liabilities on the right-hand side. This led to balance sheets being issued in that form, making the proprietor appear *Dr. to his assets, and Cr. by his liabilities*, through being drawn out *secundum artem*, and in ignorance of principles. Some accountants, whose superior knowledge cannot be doubted, still inadvertently allow their names to appear in balance sheets issued in that absurd form.

It seems necessary to add that the correctness of form of a balance sheet does not rest upon precedent, nor does a wrong form become right through being prescribed by Parliament. Either $a - b$, or $-a + b$ must be used. Both are correct. Which to adopt is a matter of common sense. If the balance-sheet *must* be rendered as a Dr. and Cr. account, then the Joint Stock Company's form, 1862, *is the only form fulfilling that requirement.* It is $-a + b$. *E.g.*:—

Dr. *The English Timber Company, Limited.* Cr.

	£	s.	d.		£	s.	d.
To Shareholders,* for Capital	10,000	0	0	By Stock of Timber	8,000	0	0
,, Sundry Creditors	5,000	0	0	,, Sundry Debtors	7,000	0	0

For, if rendered as $a - b$, it would appear as follows:—

* Shareholders are not ordinary Creditors, but it is not necessary for my present purpose, to define their legal position, or to separate capital and liabilities, as is done in the full form.

Sundry persons, Shareholders and Creditors of the English Timber Company, Limited, in account with the Company.

Dr.	£	s.	d.	Cr.	£	s.	d.
To Stock of Timber	8,000	0	0	By Share Capital....	10,000	0	0
„ Sundry Debtors to the Company	7,000	0	0	„ Sundry Creditors of the Company..	5,000	0	0

I leave this *reductio ad absurdum* to speak for itself. It completes my impeachment. You cannot make a Dr. and Cr. account in the form of "The World in account with the English Timber Company," for "The World," as used in the debate, includes persons and interests wholly separate and independent; and incapable of being united.

But a Dr. and Cr. account is of necessity the account of one, and of only one, viz., A (who renders it) with another, or with others, viz., B, or B, C, D, &c. (to whom A renders it). "A" may be a person, or a firm of co-partners, or a company of shareholders; but cannot be more than one body. There can be no departure from that in a Dr. and Cr. balance sheet. It is an account. The introduction of real, in addition to personal assets, makes no difference. In fine, it is simply impossible to state a balance sheet, as a Dr. and Cr. account, in any other form than as the body whose affairs it represents in account with all other persons concerned. "A in account with the World" is correct. But "The World in account with A"—well, I have already sufficiently characterised it.

I now venture to say, that if you will reperuse Mr. Guthrie's able paper, and the debate and subsequent

letters thereon, in connection with the observations I have made, the force of my criticism will be perceived, and I am sure you will find it a not unprofitable study.

Mr. Guthrie is quite right in his contention that there is no logical obligation to issue a balance sheet in the form of an account. Being simply a statement of assets and liabilities, it is much better to render it free from the limitations of Dr., Cr., To, and By; for only few laymen understand these terms in all their applications. But who can fail to understand the following:—

Balance Sheet of the English Timber Company Limited, on December 31st, 1882.

LIABILITIES.	£ s. d.	ASSETS.	£ s. d.
On Capital Account to Shareholders....	10,000 0 0	Timber in Stock	8,000 0 0
On Trade Account to Creditors	5,000 0 0	Due by Debtors	7,000 0 0
	£15,000 0 0		£15,000 0 0

Profit and Loss Account for 12 months ending Dec. 21st, 1882.

CHARGES AND LOSSES.	£ s. d.	PROFITS.	£ s. d.
Salaries, &c.....	500 0 0	From Sales	850 0 0
Loss on Wilson's Oak..	100 0 0		
Bad Debts.....	200 0 0		
Depreciation of Stock ..	50 0 0		
	£850 0 0		£850 0 0

This, in the main, is the Joint Stock Company's

form, but without Dr., Cr., To, and By. It fulfils the statute, and does not require a professional interpreter. For more than ten years I have imposed it wherever I have been able to do this as auditor. In the above form I not only give the day of balancing, but the period embraced in the profit and loss account. All ought to do this. How often is the former headed balance sheet *for the year;* and the latter as if it were profit and loss of a single day.

When there is no statutory or other limitation, it is correct to render the balance sheet as follows, viz. :—

Balance Sheet of the English Timber Company, Limited, on December 31*st*, 1882.

ASSETS.	LIABILITIES.

But, when this is done, its accompanying profit and loss statement should be in the following form, viz. :—

PROFITS.	CHARGES.

For either the scientific form, $-a+b$, should be used throughout, or the popular form, $a-b$, should be used throughout. If intended only for accountants and mathematicians, the scientific form would of course be adopted; but, looking at the fact that the chief object of balance sheets is for the information of shareholders and the public, there is much to be said in favour of preferring the popular form.

I hope I have proved to you that it is teaching,

and not compulsion, which is needed. The latter already exists in the inexorable law which I have endeavoured to reveal to you. The Manchester Society cannot alter it. They went too far. Ascending misty heights, among the clouds, they lost their way; and must now, perforce, march down the hill again.

For who is to compel the adoption of the one, and the rejection of the other, when both are right? Who would punish for using the prescribed form, if, being right in itself, it contained all the same facts, as fully, truly, clearly, and intelligibly stated as they would have been given in the adopted form. It is beyond the province of Government to go so far. The 1862 Act does not impose the form it gives. It only says it shall be used where shareholders do not otherwise decide in their special articles.

A better course is open to us: let the Institute, at its annual meeting, resolve on *recommendations*, both on that and on numerous other matters of practice. The voice of the profession, speaking in that way, could scarcely fail to have an almost imperial controlling influence, not on the profession alone, but through the whole community. That would be dignified action. Compulsion is the resource of weakness. It should be abhorrent to us. Truth, when she emerges from the well, at the bottom of which you and I have now been seeking her, will stand erect, firm, and free. You cannot bind her in chains. At the slightest strain these would snap, and fall asunder.

Here I may fitly point out that a code of technical terms is much needed. The Institute should supply it. Receipts, payments, profit and loss, Dr. to, Cr. by, posting, and balancing have a technical and definite meaning; but revenue, income, expenditure, and even debts and debtors are used loosely and capriciously, the two last-named terms often taking the place of credits and creditors.

I will now add examples of mental confusion of things, which in themselves are incapable of being mixed.

One of the Manchester Accountants said, in effect, that assets in the cash-book cease to be assets when the cash debits are posted in the ledger; *as if the crediting of the persons from whom the cash was received were a process of paying cash away.*

Another Accountant wrote that the ledger *is not a book of account;* and, acknowledging his incompetence to speak thereon, gave the authority of a lawyer for his incredible assertion. Surely Accountants ought to know best what are books of account. The lawyer meant that the ledger is not a book of account *receivable in evidence.*

Another practitioner wrote "How can shareholders be Dr. for their subscribed capital?" and, that "the statement of assets and liabilities *may or may not* be considered a complete balance sheet." What does he mean?

Another speaker said he had felt that the Institute's much criticised statement of accounts ought to have been headed receipts and payments, instead of receipts

and general expenditure. This surprised me much, because it clearly appears that the statement he referred to includes liabilities as well as payments.

It is remarkable that the Institute's forms are those on which Audit question No. 8 (*Accountant*, Sept. 2, 1882), asks, "Are they correctly shown as to name and as to form?" Thereby the Examiner invited the Examinees either to approve of them or to condemn them. I cannot imagine it was the former. The Institute's accounts ought to be models of perfection; and its Examiners in accounts free from peculiar notions. Bookkeeping is an exact science. Students ought to be in no danger of failing through not being mounted on the hobby which an Examiner has been accustomed to ride.

If, then, accountants of the highest rank in the practical work of the profession have shown themselves so much at sea on the science of accounts, I have established my position. For, if Arbitration be contemplated as a branch of your future career, in accordance with the Institute's scheme, it is incumbent on you to train yourselves in reasoning, and in tracing effects back to causes, quite as much as in acquiring proficiency in office practice. And, first of all, master the very simple and easily grasped principles of the art which is the foundation of our profession, whether this knowledge be sought of you in the Institute's examinations or not.

For accountants, to be competent to arbitrate on Accounts, must at the least be able, in what belongs

to their own business, to see things separately which are essentially different.

And do not forget that the office of arbitrator is one of high dignity and responsibility; for he is generally *the final judge both of law and fact.* As to cases referred from courts of law (in which his functions are often limited) lawyers suggest their being decided on the same principles as have actuated the tribunal for which the arbitrator is substituted. Lawyers, of course, are likely to act so. But laymen are not likely of themselves to so act, both from ignorance of those principles, and from indisposition to surrender their usual modes of thought, and resulting convictions, to the slavish shackles of a court's traditions which they are unable to understand. They will be likely to cut the knot with the knife of common sense, rather than unloose it by a process which is to them inexplicable; and, on the whole, with more substantial justice to the suitors.

When purely legal rights are referred by courts, it is a different matter. But these, of course, must always go to lawyers.

Moral considerations naturally prevail with laymen, and legal and technical ones with lawyers. The former try to put themselves in the suitors' place. The latter *must* give weight to strict law, even where it is manifestly not strict right, *e.g.*,—On seeing the draft of a deed, on which deed dispute had arisen, the arbitrator pronounced the deed wrong, and decided according to the intended deed. Baron Parke said thereon, that he, as judge, could not have altered

the construction of the deed, although the deed was drawn up in mistake. He was also of opinion that the arbitrator had power to reform it, under his equitable authority.

I recommend you all to keep that case in mind. The ends of justice would often be better served by references to laymen, *because lawyers are bound by precedent. They must act in accordance with their knowledge of law, even where, as men of the world, they see that this defeats justice.*

I regard the unfortunate difference between the Liverpool Lyceum and the Liverpool Library as a case within that category. If the two authorities had seen their way to let the matter be decided between them, not on the peculiar legal uncertainty into which, when all went smoothly, matters had been unconsciously allowed to drift, but on substantial merits, by a thoroughly competent layman, I cannot doubt that a compromise would have been arrived at which would have satisfied the parties as well as the jnstice of the case; and at small cost. But £1000, or from that to £1600, has been absolutely thrown away in law costs ; *and the whole case is to be gone into again !*

" Stick to rights " is a frequent and forcible, but not always *wise* member of a directory, and nearly always has that support at his back which, I am bound to say, the responsible lawyer cannot but give him.

Those of you who have access to it, read the interesting article on the late Sir George Jessell, in *Saturday Review*, March 24th, 1883, p. 360. Even he, with all his preference of substantial justice to secondary considerations, was obliged, while he was a

judge of first instance, to follow the decisions of co-ordinate and superior tribunals.

If I have failed in this effort at exposition of a much misunderstood matter, it is not due to any inherent weakness in the subject itself, but to my deficiency in those qualifications of clearness of vision, and clearness of expression which I am urging you to cultivate. Avoid, then, my example. I have, however, tried to make the matter plain. It has scarcely been easy work to arrange and condense the argument, and it is only because I have been unable to find, in any of the authorities on bookkeeping, that any one else has attempted the same task, that I have been so bold as to engage in it. But I am sensible of the imperfection of its performance, and that I must therefore apologize for not having left this also to the chance of its being undertaken by someone else possessing greater ability to address you thereon.